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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,212	03/27/2006	Masayuki Takeda	8013-1265	5185
<div>465 7590 06/11/2010</div> <div>YOUNG &amp; THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314</div>				
EXAMINER				
THOMAS, ERIC W				
ART UNIT		PAPER NUMBER		
2831				
NOTIFICATION DATE		DELIVERY MODE		
06/11/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

### Office Action Summary

**Application No.**

10/534,212

**Applicant(s)**

TAKEDA ET AL.

**Examiner**

Eric Thomas

**Art Unit**

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 May 2010.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3 and 5 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/22)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/7/10 has been entered.

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 21 of U.S. Patent No. 7,072,173 in view of JP 2000-173876 ('876) and JP 01-268110 ('110).

'173 discloses in claim 21, an electrolytic capacitor electrolyte wherein the electrolyte solution contains aluminum tetrafluoride salt with i) aluminum tetrafluoride as an anion component and ii) one of ammonium, amine, quaternized ammonium and quaternary cyclic amidinium as a cation component .

'173 discloses the claimed invention except for the electrolytic capacitor comprises anode and cathode foils, a separator, and an outer case housing the capacitor element, wherein the separator is formed from a heat resistant synthetic resin and a sealing member that seals the outer case.

'876 teaches that a typical electrolytic capacitor comprises an electrolytic capacitor element comprising anode and cathode foils, a separator; wherein an outer case houses the capacitor element; and a sealing member that seals the outer case.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the electrolyte in an electrolytic capacitor comprising anode and cathode foils, and a separator; wherein the capacitor element is formed within an outer case, and a sealing member that seals the outer casing, to obtain a sealed electrolytic capacitor having an electrolyte with good electrochemical properties.

'110 discloses an aluminum electrolytic capacitor comprising a wound capacitor element fabricated by winding an anode foil [3], a cathode foil [4] and a separator (5) and impregnating the capacitor element with an electrolyte solution, an outer case [1]

for housing the capacitor element, and wherein a separator is a heat resistant synthetic resin (rayon - abstract).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the separator of '173 using the heat resistant synthetic resin of '110, since such a modification would form an aluminum electrolytic capacitor having a separator with high heat resistance.

3. Claim 2 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 21 of U.S. Patent No. 7,072,173 in view of JP 2000-173864 ('864) and JP 2000-173876 ('876).

'173 discloses an electrolytic capacitor electrolyte wherein the electrolyte solution contains aluminum tetrafluoride salt.

'173 discloses the claimed invention except for the electrolytic capacitor comprises anode and cathode foils, and a separator that is formed from a mixed paper containing glass fiber; an outer case and a sealing member for sealing an open part of the outer case.

'876 teaches that a typical electrolytic capacitor comprises an electrolytic capacitor element comprising anode and cathode foils, a separator; wherein an outer case houses the capacitor element, wherein a sealing member seals the outer case.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the electrolyte in an electrolytic capacitor comprising anode and cathode foils, a separator, wherein the capacitor element is formed within an outer

case, and a sealing member that seals the outer casing, to obtain a sealed electrolytic capacitor having an electrolyte with good electrochemical properties.

'864 discloses an electrolytic capacitor comprising a mixed paper containing glass fiber separator.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the separator of '173 from the material of '864, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

4. Claim 3 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 20 of U.S. Patent No. 7,072,173 in view of JP 2000-173864 ('864), JP 2000-173876 ('876), and Arora et al. (RE 31,743).

'173 discloses the claimed invention except for the anode or cathode foil being subjected to a phosphate treatment.

Arora et al. teach that treating an aluminum foil with a phosphate treatment produces a uniform etched structure.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to treat the anode and cathode foils with a phosphate etch treatment, since such a modification would uniformly etch the anode and cathode foils.

5. Claim 5 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 20 of U.S. Patent No. 7,072,173 in view of JP 2000-173876 ('876), JP 01-268110 ('110) and Arora et al. (RE 31,743).

'173 discloses the claimed invention except for the anode or cathode foil being subjected to a phosphate treatment.

Arora et al. teach that treating an aluminum foil with a phosphate treatment produces a uniform etched structure.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to treat the anode and cathode foils with a phosphate etch treatment, since such a modification would uniformly etch the anode and cathode foils.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-2, 3, 5 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Thomas whose telephone number is 571-272-1985. The examiner can normally be reached on Monday - Friday 5:30 AM - 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric Thomas/  
Primary Examiner, Art Unit 2831